

O I P E J C I  
MAR 22 2005

2163

PTO/SB/17p (11-04)

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**PETITION FEE**  
**Under 37 CFR 1.17(f), (g) & (h)**  
**TRANSMITTAL**  
(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents  
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	09/683,093
Filing Date	November 16, 2001
First Named Inventor	Thompson et al.
Art Unit	2163
Examiner Name	to be assigned
Attorney Docket Number	FLD0001-CIP2

Enclosed is a paper filed under 37 CFR 1.102 that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.

This form should be included with the above-mentioned paper and faxed or mailed to the Office using the appropriate Mail Stop, (e.g., Mail Stop Petition), if applicable. For transmittal of petition fees under 37 CFR 1.17(i) see form PTO/SB/17i.

**Payment of Fees** (small entity amounts are NOT available for the petition fees)

- ☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 50-1458 :  
☒ processing fee under 37 CFR 1.17(f), (g) or (h) ☒ any deficiency of fees and credit of any overpayments

Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of \$ \_\_\_\_\_ is enclosed.

☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

**Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462**

For petitions filed under:

- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

**Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463**

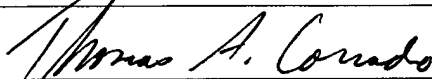
For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c) - for patent owner requests for extension of time in *ex parte* reexamination proceedings.
- § 1.956 - for patent owner requests for extension of time in *inter partes* reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.25 - for retroactive license.

**Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464**

For petitions filed under:

- § 1.19(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.



Signature

Thomas A. Corrado

Typed or printed name

March 22, 2005

Date

03/23/2005 JAD001 00000092 501458 09603093  
42,439  
Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 01.14C11454 collection is 43000000 take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT APPLICATION



Attorney Docket No.: FLD0001-CIP2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: **Thompson et al.**  
SERIAL NO.: **09/683,093** GROUP ART UNIT: **2163**  
FILED: **November 16, 2001** EXAMINER: **Not Assigned**  
TITLE: **A SUBSTITUTE FULFILLMENT SYSTEM**

*U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window, Mail Stop Petitions  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202*

**PETITION TO MAKE SPECIAL AND STATEMENT  
SUPPORTING SAID PETITION TO MAKE SPECIAL  
PURSUANT TO 37 C.F.R § 1.102 AND MPEP § 708.02**

Dear Sir:

In accordance with 37 C.F.R § 1.102<sup>1</sup> and MPEP § 708.02, the undersigned respectfully petitions the Commissioner for advanced examination of the above-identified patent application filed contemporaneously herewith (hereafter "Application"). Advanced examination is requested on the basis of special grounds pursuant to 37 C.F.R. § 1.102 (a) and (d). More particularly, as set forth in MPEP § 708.02 (II)<sup>2</sup>, this petition is requested based on the special grounds of infringement.

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<sup>1</sup> **37 CFR 1.102 Advancement of examination.**

(a) Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Commissioner to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Commissioner, will justify so advancing it.

(b) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.

(c) A petition to make an application special may be filed without a fee if the basis for the petition is the applicant's age or health or that the invention will materially enhance the quality of the environment or materially contribute to the development or conservation of energy resources.

(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the fee set forth in § 1.17(h).

<sup>2</sup>**708.02 Petition To Make Special [R-1]**

## STATEMENT

Pursuant to MPEP § 708.02 (II), based on good faith information and belief, the undersigned alleges that at least some of the claims presented in the Application are being actually infringed by product(s) currently on the market. MPEP § 708.02 II(A). The undersigned has performed a comparison of the product(s) and the claims of the Application and is of the opinion that at least some of the claims are infringed. *Id.* at II(B). Further, through the filing and subsequent prosecution of two previous filed patents applications, now United States Patent No. 6,334,133 and 6,675,151, which the present application claims priority to, the undersigned has caused to be made a careful and thorough search of the prior art by the Patent Office and through the submission of references in information disclosure statements. *Id.* at II(C). Please note, that the assignee of U.S. Patent No. 6,334,133 and 6,675,151 has settled two law suits alleging patent infringement of U.S. Patent No. 6,675,151 and has two law suits alleging patent infringement of U.S. Patent No. 6,675,151. In addition, the present application has a computer-readable medium claim that is substantially similar to at least one corresponding method claim in U.S. Patent 6,675,151.

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## **II. INFRINGEMENT**

Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

- (A) That there is an infringing device or product actually on the market or method in use;
- (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
- (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

Models or specimens of the infringing product or that of the application should not be submitted unless requested.

CONCLUSION

In addition to the statement presented above and in accordance with 37 C.F.R § 1.102(d), the undersigned also submits herewith the required fee of \$130.00 pursuant to 37 C.F.R § 1.17(h). The undersigned respectfully requests that the Commissioner grant this petition to make special and expedite the prosecution of the Application.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-1458, and please credit any excess fees to such deposit account.

Respectfully submitted,

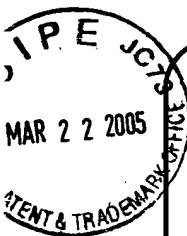
Dated: March 22, 2005

By: Thomas A. Corrado

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607 14<sup>th</sup> Street, Suite 900  
Washington, DC 20005-2018  
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Thomas A. Corrado  
Attorney for Applicant  
Registration No. 42,439

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

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09/683,093

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First Named Inventor

Thompson et al.

Art Unit

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Examiner Name

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**ENCLOSURES (check all that apply)**☒ Fee Transmittal Form☐ Fee Attached☐ Amendment / Reply☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Reply to Missing Parts/  
Incomplete Application☐ Reply to Missing Parts  
under 37 CFR1.52 or 1.53☐ Drawing(s)☐ Licensing-related Papers☒ Petition☐ Petition to Convert to a  
Provisional Application☐ Power of Attorney, Revocation  
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) \_\_\_\_\_☐ Landscape Table on CD☐ After Allowance Communication to TC☐ Appeal Communication to Board  
of Appeals and Interferences☐ Appeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☐ Other Enclosure(s)  
(please identify below):**Remarks****SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm

KILPATRICK STOCKTON LLP

Signature

Printed Name

Thomas A. Corrado

Date

March 22, 2005

Reg.  
No.

42,439

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Typed or printed name

Date

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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